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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,362	03/30/2006	Robert Albertus Brondijk	NL031224	2295
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EXAMINER HARVEY, DAVID E				
ART UNIT 2621		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,362

Applicant(s)

BRONDIJK, ROBERT ALBERTUS

Examiner

DAVID E. HARVEY

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-2 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 4-6 is/are allowed.
6) ☒ Claim(s) 1-3 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 30 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

1. The examiner notes that the instant application SN 10/574362 is the national stage of PCT/IB04/51949. During the consideration of the PCT, the PCT examiner too the position that the instant disclosure was inadequate because it relied on a DVD standard that was not available to the public [NOTE: lines 25-28 on page 1 of the instant specification; and submitted "371P" documents of record dated 3/30/2006]. The instant examiner has considered the issue as it might pertain to Section 112 issues; i.e., regardless of whether or not the noted standard was available as "prior art" under section 102. The instant examiner believes that the instant disclosure provides adequate support required under section 112 for the instant claims.
2. The following references are noted:

A) US Patent #7,177,261 to Thompson et al:

Thompson et al has been cited for its showing/description of the conventional format of dual-layer Opposite Track Path DVD optical recording discs [NOTE: Figure 6; and lines 35-50 of column 7].

B) US Patent #7,227,831 to Tokumoto et al:

Tokumoto et al. has been cited for its clear/succinct description of the differences that exist when recording data to a **writable** dual-layer Opposite Track Path DVD optical recording discs and when recording data to a **rewritable** dual-layer Opposite Track Path DVD optical recording discs [NOTE: lines 15-67 of column 1; lines 1-67 of column 2; and lines 1-36 of column 3]. Specifically, Tokumoto et al indicates that, in the case of writing data to **rewritable** dual-layer Opposite Track Path DVD optical recording discs, the inter-layer transition position, as defined by the middle area, is variable/adjustable given the rewritable nature of the disc; i.e., the location changes as the volume of data changes [NOTE: lines 1-4, 21-25, 33-35, 38-42, 49-52, and 64-67 of 5-67 of column 2; and lines 1-2, and 31-36 of column 3].

While this reference does not qualify under Section 102 as "prior art" against the instant application [note the claim of foreign priority], the examiner maintains that such described characteristics of rewritable dual-layer Opposite Track Path DVD optical recording discs were well known to those of ordinary skill in the art and, indeed, were inherent in the rewritable nature of such discs.

C) US Patent #7,184,377 to Ito et al.:

Ito et al. has been cited because it too illustrates the conventional format of dual-layer Opposite Track Path DVD optical recording discs [NOTE: Figure 4C; and lines 1-30 of column 3]. With respect to figure 6, Ito et al. describes and illustrates a modifying the conventional dual-layer Opposite Track Path DVD optical recording discs format whereby intermediate spare areas (@ 106 and 106') are selectively "added to" the middle area/region thereby, as illustrated in Figure 6, effectively adjusting the location of the layer transition point and, implicitly, the physical and logical addresses associated therewith (i.e., the maximum available address values & storage space).

3. The examiner notes that the description of "prior art" set forth on pages 1-2 of the instant specification is directed to writable DVDs; i.e., this description is not directed to rewritable DVDs. The examiner contends that this is significant in that:

A) While it is true that the physical and logical addresses pertaining to the layer transition point in conventional multilayer writable DVDs was conventionally prerecorded/fixed;

B) The examiner contends that the physical and logical addresses pertaining to the layer transition point in multilayer rewritable DVDs was not conventionally prerecorded/fixed – the middle area/zone of these rewritable DVDs, and hence the physical and logical address of the transition point, were adjustable by the user during recording.

In this regard, it is noted that the instant claims are not limited to writable and, for reasons to be addressed below, the examiner contends that the instant claims are rendered obvious over the known method of duplicating DVDs performed by the conventional DVD copy programs cited in lines 1-8 on page 1 of the instant specification (as/when applied to rewritable DVDs).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art" in view of:

A) Notoriously well known a rewritable dual-layer Opposite Track Path DVD optical recording discs formatting; and/or

B) The showing of US Patent #7,184,377 to Ito et al.

1) While claims 1-3 recite "means", with the possible exception of the "writing means", said recited "means" are not written in a means plus function format and do not invoke a section 112-6 interpretation for this reason alone.

2) On page 1 and lines 1-12 on page 2 of the instant specification, applicant acknowledges that the instant invention relates to a conventional method provided by conventional DVD copy programs that, as the time of the invention, were available for personal computers [e.g., note lines 1-8 on page 1 of the instant specification].

3) As currently understood by the examiner, the apparatus recited in instant claim 1 appears to differ from the "personal computers" of the acknowledged prior art only in the recitation of a "logical address adjusting means" that is operative to adjust a first logical address based on a layer transition point provided by a layer transition point determined means.
The following is noted:

a) As addressed above (note paragraph 3 of this Office action), the examiner agrees that the "personal computers" of the acknowledged prior art prior would not have provided the recited operation of the recited adjusting means when writing information to a writable DVD disc being that the "middle area" of such writable discs were known to be prerecorded and therefor fixed, however, the examiner contends that it would have been obvious to one of ordinary skill in the art to have used such conventional personal computers to write information to a rewritable

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DVD disc, in which case the "middle area" was not prerecord or fixed and was subject to being adjusted;

b) Alternatively, the examiner contends that it would have been obvious to have modified the personal computers of the admitted prior art to add the intermediate spare areas to the "middle area" as was taught by Ito et al. [SEE: part "C)" under paragraph 2 of this Office action], thereby causing the layer transition point, and the physical and logical addresses associated therewith, to be adjusted [See Figure 6 of Ito et al.]. The motivation for this modification being the ability to correct disc errors provided by the added spare areas.

- 6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art" in view of: 1) Notoriously well known a rewritable dual-layer Opposite Track Path DVD optical recording discs formatting; and/or 2) The showing of US Patent #7,184,377 to Ito et al., for the same reasons that were set forth above for claim 1. Additionally:**

With respect to claim 3, it is maintained that the recited "information file" broadly/fairly reads on the software that runs was provided to and runs the personal computer of the admitted prior art.

- 7. Claims 4-8 are allowed.**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. HARVEY whose telephone number is (571) 272-7345. The examiner can normally be reached on M-F from 6:00AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Marsha D. Banks-Harold, can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DAVID E HARVEY/

Primary Examiner, Art Unit 2621

DAVID E HARVEY
Primary Examiner
Art Unit 2621